

1 ~~(c) The parties shall be advised of their rights under law in their first appearance at intake and~~
2 ~~before the court. They shall be informed of the specific allegations in the petition and given an~~
3 ~~opportunity to admit or deny the allegations.~~

4 **§ 12-15- . [DEL] Conduct of delinquency and in need of supervision hearings.**

5 ~~(d)~~ If the allegations are denied, the court shall proceed to hear evidence on the petition. If
6 the court finds on proof beyond a reasonable doubt, based upon competent, material, and
7 relevant evidence, that a child committed the acts by reason of which the child is alleged to be
8 delinquent or in need of supervision, the ~~The~~ court shall record its findings ~~on whether or not the~~
9 ~~child is a dependent child or, if the petition alleges delinquency or in need of supervision,~~ as to
10 whether or not the ~~acts ascribed to the child were~~ committed the acts alleged in the petition by
11 ~~the child.~~ If the court finds that the allegations in the petition have not been established, ~~if the~~
12 court shall dismiss the petition and order the child discharged from any detention or temporary
13 care, theretofore ordered in the proceedings.

14 (b) If the child admits to the allegations contained in the petition, the court shall adjudicate
15 the child delinquent or in need of supervision and shall proceed to disposition. The court

16 ~~(e) If the court finds on proof beyond a reasonable doubt, based upon competent, material,~~
17 ~~and relevant evidence, that a child committed the acts by reason of which the child is alleged to~~
18 ~~be delinquent or in need of supervision it~~ may proceed immediately to the dispositional hearing
19 to hear evidence as to whether the child is in need of care or rehabilitation and to file its findings
20 thereon. In the absence of evidence to the contrary, evidence of the commission of an act ~~which~~
21 that constitutes a felony is sufficient to sustain a finding that the child is in need of care or
22 rehabilitation. If the court finds that the child is not in need of care or rehabilitation, it shall
23 dismiss the proceedings and discharge the child from any detention or other temporary care
24 theretofore ordered.

1 ~~(fc)~~ If the court finds from clear and convincing evidence, competent, material, and relevant
2 in nature, ~~that the child is dependent and in need of care or supervision or from clear and~~
3 ~~convincing evidence, competent, relevant, and material in nature,~~ that the child is in need of care
4 or rehabilitation as a delinquent child or a child in need of supervision, ~~or from clear and~~
5 ~~convincing evidence, competent, relevant, and material in nature that parental rights should be~~
6 ~~terminated, the court may proceed immediately,~~ in the absence of objection showing good cause
7 or at a postponed hearing, ~~to the court may~~ make proper disposition of the case.

8 ~~(g) If the court enters an order removing a child from his or her home or continuing a child~~
9 ~~in a placement outside of his or her home pursuant to this title, the order shall contain as specific~~
10 ~~findings, if warranted by the evidence, all of the following:~~

11 ~~(1) That continuing the placement of a child in his or her home would be contrary to the~~
12 ~~best interests of the child.~~

13 ~~(2) That reasonable efforts have been made to prevent or eliminate the need for removal~~
14 ~~of the child from his or her home, or that an emergency situation exists which requires the~~
15 ~~immediate temporary removal of the child from his or her home and that it is reasonable not~~
16 ~~to make efforts to prevent removal of the child from his or her home due to the emergency~~
17 ~~situation.~~

18 ~~(3) That reasonable efforts have been made or will be made to reunite the child and his or~~
19 ~~her family, or that efforts to reunite the child and his or her family have failed.~~

20 ~~(hd)~~ In disposition hearings, all relevant and material evidence helpful in determining the
21 questions presented, including oral and written reports, may be received by the court and may be
22 relied upon to the extent of its probative value, even though not competent in a hearing on the
23 petition. The parties or their counsel shall be afforded an opportunity to examine and controvert
24 written reports so received and to cross-examine individuals making reports.

~~(i) A statement made by a child under the age of 12 describing any act of sexual conduct performed with or on the child by another, not otherwise admissible by statute or court rule, is admissible in all dependency cases brought by the State of Alabama acting by and through a local department of human resources if:~~

~~(1) The statement was made to a social worker, child sex abuse therapist or counselor, licensed psychologist, physician, or school or kindergarten teacher or instructor; and~~

~~(2) The court finds that the time, content, and circumstances of the statement provide sufficient indicia of reliability. In making its determination the court may consider the physical and mental age and maturity of the child, the nature and duration of the abuse or offense, the relationship of the child to the offender, and any other factor deemed appropriate.~~

~~A statement may not be admitted under this section unless the proponent of the statement makes known to the adverse party the proponent's intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the adverse party with a fair opportunity to rebut the statement. This child hearsay exception applies to all hearings involving dependency including, but not limited to, the 72-hour hearing, the dependency hearing, and the disposition hearing.~~

~~(j) This exception contained herein shall not apply to a criminal proceeding or charge.~~

~~(k)~~ (c) On its own motion or that of a party, the court may continue the disposition hearing under this section for a reasonable period to receive reports and other evidence bearing on the disposition or need for care or rehabilitation. In this event, the court shall make an appropriate order for detention or temporary care for the child, or the ~~child's~~ release of the child from ~~for~~ detention or temporary care during the period of the continuance, subject to such conditions as the court may impose.

~~(l) A proceeding to allow a child to withdraw from school shall be commenced by petition. The petition shall be granted only upon a showing of good cause for withdrawal. No child shall be deemed incorrigible, in need of supervision, or unamenable to treatment based on the filing of the petition.~~

~~In the case of any child 14 years of age or older, where the court finds that the school officials have made a diligent effort to meet the child's educational needs and, after study, the court further finds that the child is not able to benefit appreciably from further schooling, the court may excuse the child from further compliance with any legal requirement of compulsory school attendance and authorize the child, notwithstanding the provisions of any other law, to be employed in any occupation which is not legally declared hazardous for children under the age of 18.~~

~~(m) As used in this chapter, "reasonable efforts" refers to efforts made to preserve and reunify families prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home, and to make it possible for a child to return safely to the child's home. In determining the reasonable efforts to be made with respect to a child, and in making such reasonable efforts, the child's health and safety shall be the paramount concern. If continuation of reasonable efforts is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child and to complete whatever steps are necessary to finalize the permanent placement of the child. Reasonable efforts shall not be required to be made where the parental rights to a sibling have been involuntarily terminated or where a court of competent jurisdiction has determined that a parent has done any of the following:~~

~~(1) Subjected the child to an aggravated circumstance, including, but not limited to, abandonment, torture, chronic abuse, substance abuse, or sexual abuse.~~

1 ~~(2) Committed murder or voluntary manslaughter of another child of such parent.~~

2 ~~(3) Aided or abetted, attempted, conspired, or solicited to commit murder or voluntary~~
3 ~~manslaughter of another child of such parent.~~

4 ~~(4) Committed a felony assault which resulted in the serious bodily injury to the child or~~
5 ~~another child of such parent. The term "serious bodily injury" means bodily injury which~~
6 ~~involves substantial risk of death, extreme physical pain, protracted and obvious~~
7 ~~disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or~~
8 ~~mental faculty.~~

9 ~~Nothing in the exceptions to making reasonable efforts listed in this subsection shall be~~
10 ~~interpreted to require the reunification of a child with a stepparent or paramour of a parent under~~
11 ~~similar circumstances.~~

12 ~~(n) If reasonable efforts are not made with respect to a child as a result of a determination~~
13 ~~made by a court of competent jurisdiction in situations as described above, a permanency~~
14 ~~hearing, as provided in Section 12-15-62, shall be held for the child within 30 days after the~~
15 ~~determination. Reasonable efforts shall be made to place the child and to complete whatever~~
16 ~~steps are necessary to finalize the permanent placement of the child. Reasonable efforts to place~~
17 ~~a child for adoption or with a legal guardian or custodian may be made concurrently with other~~
18 ~~reasonable efforts.~~

19 **§ 12-15- ____ . [DEP] Conduct of dependency hearings.**

20 (a) An adjudicatory hearing is a hearing at which evidence is presented for a court to
21 determine if a child is dependent. At the commencement of the hearing, if the parties are not
22 represented by counsel, they shall be informed of the specific allegations in the petition. The
23 parties shall be permitted to admit or deny the allegations prior to the taking of testimony.

1 (b) If the allegations are denied by the parties or if they fail to respond, the court shall
2 proceed to hear evidence on the petition. The court shall record its findings on whether the child
3 is a dependent child. If the court finds that the allegations in the petition have not been proven
4 by clear and convincing evidence, it shall dismiss the petition.

5 (c) A statement made by a child under the age of 12 describing any act of sexual conduct
6 performed with or on the child by another, not otherwise admissible by statute or court rule, is
7 admissible in all dependency cases brought by the State of Alabama acting by and through a
8 local department of human resources if:

9 (1) The statement was made to a social worker, child sex abuse therapist or counselor,
10 licensed psychologist, physician, or school or kindergarten teacher or instructor; and

11 (2) The court finds that the time, content, and circumstances of the statement provide
12 sufficient indicia of reliability. In making its determination the court may consider the
13 physical and mental age and maturity of the child, the nature and duration of the abuse or
14 offense, the relationship of the child to the offender, and any other factor deemed
15 appropriate.

16 A statement may not be admitted under this section unless the proponent of the statement
17 makes known to the adverse party the proponent's intention to offer the statement and the
18 particulars of the statement sufficiently in advance of the proceedings to provide the adverse
19 party with a fair opportunity to rebut the statement. This child hearsay exception applies to all
20 hearings involving dependency including, but not limited to, the 72-hour hearing, the
21 dependency hearing, and the disposition hearing.

22 The exception contained in this subsection shall not apply to a criminal proceeding or charge.

23 **§ 12-15- . [DEP] Disposition hearing.**

1 (a) If the court finds from clear and convincing evidence, competent, material, and relevant
2 in nature, that the child is dependent, the court may proceed immediately, in the absence of
3 objection showing good cause or at a postponed hearing, to make proper disposition of the case.

4 (b) In disposition hearings all relevant and material evidence helpful in determining the best
5 interests of the child, including oral and written reports, may be received by the court even
6 though not admissible in the adjudicatory hearing. The parties or their counsel shall be afforded
7 an opportunity to examine and controvert written reports so received and to cross-examine
8 individuals making reports.

9 (c) On its own motion or that of a party, the court may continue the disposition hearing under
10 this section for a reasonable period to receive reports and other evidence bearing on the
11 disposition or need for care or rehabilitation. In this event, the court shall make an appropriate
12 order for temporary care for the child, or the child's release from temporary care during the
13 period of the continuance, subject to such conditions as the court may impose.

14 **§ 12-15- . [DEP] Reasonable efforts determinations; situations in which reasonable**
15 **efforts are not required to be made.**

16 (a) As used in this chapter, “reasonable efforts” refers to efforts made to prevent or eliminate
17 the need for removing the child from the child’s home, and to make it possible for a child to
18 return safely to the child’s home. In determining the reasonable efforts to be made with respect
19 to a child, and in making such reasonable efforts, the child’s health and safety shall be the
20 paramount concern.

21 (b) Reasonable efforts shall not be required to be made where the parental rights to a sibling
22 have been involuntarily terminated or where a court of competent jurisdiction has determined
23 that parent has done any of the following:

1 (1) Committed an aggravated circumstance against the child or the sibling of the child
2 and the risk of child abuse or neglect is too high for the child to safely remain at home or to
3 be returned home. An aggravated circumstance includes, but is not limited to, rape, sodomy,
4 incest, aggravated stalking, abandonment, torture, chronic abuse, or sexual abuse. An
5 aggravated circumstance may also include any of the following:

6 a. Allowing a child to use alcohol or illegal drugs to the point of abuse, neglect, or
7 substantial risk of harm.

8 b. Substance misuse or abuse, or both, by a parent or interfering with the ability to
9 keep the child safe and refusal of a parent to participate in or complete treatment, or
10 where treatment has been unsuccessful.

11 c. A parent demonstrating extreme disinterest in the child by doing either of the
12 following:

13 1. Not complying with the steps outlined in the individualized service plan or case
14 plan over a period of six months.

15 2. Repeatedly leaving the child with someone who is unwilling or incapable of
16 providing care, and not returning for the child as promised.

17 d. Abandoning an infant or young child when the identity of the child is unknown and
18 the parent is unknown or unable to be located after a diligent search.

19 e. When the parent has an emotional or mental condition and there is clearly no
20 treatment than can improve or strengthen the condition enough to allow the child to
21 safely remain at home or safely return home.

22 f. When the parent is incarcerated for a certain number of years and the child will be
23 deprived of a safe, stable and permanent parent-child relationship.

1 (2) Committed murder or manslaughter of another child, or murder or manslaughter of
2 the other parent of the child.

3 (3) Aided or abetted, attempted, conspired, or solicited to commit murder or
4 manslaughter of another child or aided or abetted, attempted, conspired, or solicited to
5 commit murder or manslaughter of the other parent of the child.

6 (4) Committed a felony assault which resulted in the serious bodily injury to the child or
7 another child or to the other parent of the child. The term “serious bodily injury” means
8 bodily injury which involves substantial risk of death, extreme physical pain, protracted and
9 obvious disfigurement, or protracted loss or impairment of the function of a bodily member,
10 organ, or mental faculty.

11 Nothing in the exceptions to making reasonable efforts listed in this subsection shall be
12 interpreted to require the reunification of a child with a stepparent or paramour of a parent
13 under similar circumstances. The crimes listed in this subsection may include those from
14 other states or federal crimes if the elements of the crimes are substantially similar to those
15 crimes in this state.

16 (c) If reasonable efforts are not made with respect to a child as a result of a determination
17 made by a court of competent jurisdiction in situations as described above, a permanency
18 hearing, as provided in Section *herein, shall be held for the child within 30 days after the
19 determination. Reasonable efforts shall be made to place the child and to complete whatever
20 steps are necessary to finalize the permanent placement of the child. Reasonable efforts to place
21 a child for adoption or with a legal guardian or custodian may be made concurrently with other
22 reasonable efforts. The determination made by a court that no reasonable efforts are required to
23 be made with respect to a child is not an appealable order. An order approving or disapproving
24 the permanency plan that is entered in a permanency hearing is a final order for purposes of

1 appeal. An appeal shall be filed with the Alabama Court of Civil Appeals within 14 days of the
2 date the order is stamped filed in the office of the clerk. Appeals relating to dependency and
3 termination of parental rights cases shall take priority over other cases filed on appeal except for
4 emergency matters, including appeals from denial of waiver of parental consent for abortion.
5 Decisions of the Alabama Court of Civil Appeals in these cases shall be released within six
6 months of the filing of the notice of appeal. Decisions of the Alabama Supreme Court in these
7 cases shall be released within four months of the filing of the petition for writ of certiorari.

8 **§ 12-15-66. IDELE Children charged with delinquent acts or alleged to be in need of**
9 **supervision to be accorded privilege against self-incrimination; admissibility in**
10 **evidence, etc., of extrajudicial statements of children and evidence illegally seized or**
11 **obtained; double jeopardy.**

12 ~~(a)~~ A child charged with a delinquent act or who is alleged to be in need of supervision shall
13 be accorded the ~~privilege against self-incrimination~~ rights and privileges afforded by the
14 Constitution of the United States and of Alabama and as further delineated in Section *.

15 ~~(b) An extrajudicial statement which would be constitutionally inadmissible in a criminal~~
16 ~~proceeding shall not be received in evidence over objection. Evidence illegally seized or~~
17 ~~obtained shall not be received in evidence over objection to establish the allegations against him.~~
18 ~~An extrajudicial admission or confession made by the child out of court is insufficient to support~~
19 ~~a finding that the child committed the acts alleged in the petition unless it is corroborated by~~
20 ~~other evidence.~~

21 ~~(c) Criminal proceedings and other juvenile proceedings based upon the offense alleged in~~
22 ~~the petition or an offense based upon the same conduct are barred where the court has begun~~
23 ~~taking evidence or where the court has accepted a child's plea of guilty to the petition.~~

24 **~~§ 12-15-68. Granting of continuances in cases.~~**

~~Continuances shall be granted by the court only upon a showing of good cause and only for so long as it is necessary, taking into account not only the request or consent of the prosecutor or of the child, but also the interest of the public in the prompt disposition of cases and whether the child is being detained.~~

§ 12-15-69. IDEL Ordering and preparation of predisposition study and report

concerning child, family, etc.; ordering, conduct and certification of findings of physical or mental examination of child prior to hearing on petition generally; examination of parent or custodian after hearing where ability to care for or supervise child in issue.

(a) ~~Unless otherwise directed by the court, probation services shall conduct a~~ After a petition alleging delinquency, in need of supervision or dependency has been filed, the court may direct that a predisposition study and shall submit a written report to the court ~~be made by probation services where the petition alleges that the child is delinquent or in need of supervision or by the Department of Human Resources when the petition alleges that the child is dependent~~ with recommendations concerning the child, his or her family, his or her environment and other matters relevant to the need for treatment or disposition of the case.

(b) Where there are indications that the child may be physically ill, mentally ill, ~~or~~ mentally retarded, incompetent to stand trial or transfer hearing in which the child is unable to assist his or her counsel, or has a mental state at the time of the offense, [Note: The language in portions or Rule 11, Alabama Rules of Criminal Procedure, may need to be tracked here to allow juvenile or family court judges the authority to order the department of Mental Health and Mental Retardation to perform a mental evaluation on the child.] the court, on its own motion or motion by the prosecutor or that of counsel for the child, may order the child to be examined at a suitable place by a physician, psychiatrist, psychologist or other qualified examiner, under the

1 supervision of a physician, psychiatrist or psychologist who shall certify such examiner's
2 findings in writing, or an examiner approved by the Department of Mental Health prior to a
3 hearing on the merits of the petition.

4 (c) The examinations made prior to hearing as provided for in subsection(b) of this section ~~or~~
5 ~~as part of the study provided for in subsection (a) of this section~~ shall be conducted on an
6 outpatient basis unless the court finds that placement in a hospital or other appropriate facility is
7 necessary.

8 ~~(d) The court, after hearing, may order an examination as described in subsection(b) of this~~
9 ~~section of a parent or custodian who gives his consent and whose ability to care for or supervise~~
10 ~~a child before the court is in issue.~~

11 § 12-15- . [DEP] Ordering and preparation of predisposition study and report

12 concerning a dependent child, family, etc.; ordering, conduct and certification of
13 findings of physical or mental examination of child prior to hearing on petition
14 generally; examination of parent or custodian after hearing where ability to care for
15 or supervise child in issue.

16 (a) After a petition alleging dependency has been filed, the court may direct that a study and
17 report to the court be made by the Department of Human Resources with recommendations
18 concerning the child, his or her family, his or her environment and other matters relevant to the
19 need for treatment or disposition of the case.

20 (b) Where there are indications that the child may be physically ill, mentally ill or mentally
21 retarded, the court, on its own motion or motion of a party may order the child to be examined at
22 a suitable place by a physician, psychiatrist, psychologist or other qualified examiner, under the
23 supervision of a physician, psychiatrist or psychologist who shall certify such examiner's

1 findings in writing, or an examiner approved by the Department of Mental Health prior to a
2 hearing on the merits of the petition.

3 (c) The examinations made prior to hearing as provided for in subsection(b) of this section or
4 as part of the study provided for in subsection (a)of this section shall be conducted on an
5 outpatient basis unless the court finds that placement in a hospital or other appropriate facility is
6 necessary.

7 (d) The court, after hearing, may order an examination as described in subsection (b) of this
8 section of a parent or custodian who gives his consent and whose ability to care for or supervise
9 a child before the court is in issue.

10 **§ 12-15-70. IDEL Ordering, conduct and certification of findings of mental and physical**
11 **examinations of children; proceedings as to minors or children believed to be**
12 **mentally ill or retarded generally; ordering of treatment or care for children found**
13 **in need of medical treatment, dental care, etc., and payment therefor; granting by**
14 **court of authority to order emergency medical care for children.**

15 The ~~juvenile~~ court in its discretion may, either before or after hearing, cause any child within
16 its jurisdiction to be given a physical ~~or mental~~ examination ~~or both~~ by a competent physician,
17 ~~psychiatrist, psychologist~~ or other qualified examiner, under the supervision of a physician,
18 ~~psychiatrist or psychologist~~ who shall certify to the examiner's findings in writing, ~~or an~~
19 ~~examiner approved by the Department of Mental Health,~~ to be designated by the court having
20 jurisdiction of the child and the physician, ~~psychiatrist, psychologist or mental examiner,~~ shall
21 certify to the court the condition in which the child is found.

22 ~~If upon such examination or upon procedure as provided in Section 12-15-90, the court has~~
23 ~~reason to believe that a minor or child is mentally ill or mentally retarded, as defined in this~~
24 ~~chapter, the court shall proceed in the manner set out in Section 12-15-90.~~

1 Upon examination, if it appears that the child is in need of surgery, medical treatment or care,
2 hospital care or dental care, the court may cause the child to be treated by a competent physician,
3 surgeon or dentist or placed in a public hospital or other institution for training or care or in an
4 approved private home, hospital or institution, which will receive it for like purposes. The
5 expense of such treatment shall be a valid charge against the county unless otherwise provided
6 for.

7 The court may grant authority to order emergency medical care to any such person, agency or
8 department charged with the detention, temporary shelter care or other care of a child within its
9 jurisdiction.

10 **§ 12-15- . [DEP] Ordering, conduct and certification of findings of mental and physical**
11 **examinations of children; proceedings as to children believed to be mentally ill or**
12 **retarded generally; ordering of treatment or care for children found in need of**
13 **medical treatment, dental care, etc., and payment therefor; granting by court of**
14 **authority to order emergency medical care for children.**

15 The court in its discretion may, either before or after hearing, cause any child within its
16 jurisdiction to be given a physical or mental examination or both by a competent physician,
17 psychiatrist, psychologist or other qualified examiner, under the supervision of a physician,
18 psychiatrist or psychologist who shall certify to the examiner's findings in writing, or an
19 examiner approved by the Department of Mental Health, to be designated by the court having
20 jurisdiction of the child and the physician, psychiatrist, psychologist or mental examiner shall
21 certify to the court the condition in which the child is found.

22 If it has been determined that the child is mentally ill or mentally retarded, the parties may
23 petition for mental commitment of the child.

1 Upon examination, if it appears that the child is in need of surgery, medical treatment or care,
2 hospital care or dental care, the court may cause the child to be treated by a competent physician,
3 surgeon or dentist or placed in a public hospital or other institution for training or care or in an
4 approved private home, hospital or institution, which will receive it for like purposes. The
5 expense of such treatment shall be a valid charge against the county unless otherwise provided
6 for.

7 The court may grant authority to order emergency medical care to any such person, agency or
8 department charged with the care of a child.

9 **§ 12-15-71. [DEL] Disposition of ~~dependent children~~, delinquent children, ~~multiple-needs~~**
10 **~~children~~, or children in need of supervision generally; evaluative role of children's**
11 **services facilitation team; placement in alternative school.**

12 ~~_(a) If a child is found to be dependent, the court may make any of the following orders of~~
13 ~~disposition to protect the welfare of the child:~~

14 ~~(1) Permit the child to remain with the parents, guardian, or other custodian of the child,~~
15 ~~subject to conditions and limitations as the court may prescribe.~~

16 ~~(2) Place the child under protective supervision as herein provided or under the~~
17 ~~supervision of the Department of Human Resources.~~

18 ~~(3) Transfer legal custody to any of the following:~~

19 ~~a. The Department of Human Resources; provided, that the department is equipped to~~
20 ~~care for the child.~~

21 ~~b. A local public child placing agency or private organization or facility willing and~~
22 ~~able to assume the education, care, and maintenance of the child and which is licensed by~~
23 ~~the Department of Human Resources or otherwise authorized by law to receive and~~
24 ~~provide care for the child.~~

~~c. A relative or other individual who, after study by the Department of Human Resources, is found by the court to be qualified to receive and care for the child.~~

~~(4) Make any other order as the court in its discretion shall deem to be for the welfare and best interests of the child.~~

~~(5) In appropriate cases, award permanent custody to the Department of Human Resources or to a licensed child placing agency with termination of parental rights and authorization to place for adoption, without appointing a legal guardian or guardian of the person, or award temporary custody to the same without appointing a legal custodian or guardian or guardian of the person.~~

~~(6) There shall be a rebuttable presumption that children cannot be removed from custody of parents solely because of a need for emergency housing.~~

~~(b) Unless a child found dependent shall also be found to be delinquent, the child shall not be committed to or confined in an institution established for the care and rehabilitation of delinquent children or detention facility. Nothing in this subsection shall be construed to prohibit the placement of dependent children in any other residential facility as defined in subdivision (22) of Section 12-15-1.~~

~~(ea)~~ If a child is found to be delinquent or in need of supervision, the court may make any of the following orders or dispositions for the ~~child's~~ supervision, care, and rehabilitation of the child:

(1) Permit the child to remain with the parents, guardian, or other custodian of the child, subject to the conditions and limitations the court may prescribe.

(2) Place the child on probation under conditions and limitations the court may prescribe.

(3) Transfer legal and physical custody to any of the following:

1 a. The Department of Youth Services, with or without a commitment order to a
2 specific institution.

3 b. In the case of a child in need of supervision, the Department of Youth Services, or
4 the Department of Human Resources.

5 c. A local, public, or private agency, organization, or facility willing and able to
6 assume the education, care, and maintenance of the child and which is licensed or
7 otherwise authorized by law to receive and provide care for children.

8 d. During the term of supervision, A-a relative or other individual who, after study by
9 the probation services, is found by the court to be qualified to receive and care for the
10 child.

11 (4) Make any other order as the court in its discretion shall deem to be for the welfare and
12 best interests of the child, including random drug screens, assessment of fines not to exceed
13 two hundred fifty dollars (\$250), and restitution against the parent, guardian, or child, as the
14 court deems appropriate. Costs for court-ordered drug screening may be ordered paid for by
15 the state out of moneys appropriated as "court costs not otherwise provided for." Any costs
16 for drug screening recouped by order of court for drug screening shall be paid to the State
17 General Fund. Restitution against the parent, guardian, or child shall be governed by the
18 same principles applicable in Article 4A of Chapter 18 of Title 15 (the Restitution to Victims
19 of Crime Act, commencing at with Section 15-18-65).

20 (5) Direct the parent, guardian, or custodian of the child to perform such reasonable acts
21 as are deemed necessary to promote the best interest of the child.

22 ~~_(6) In any case where a child is adjudicated delinquent for possessing a pistol, short-~~
23 ~~barreled rifle, or short barreled shotgun, any pistol, short barreled rifle, or short barreled~~
24 ~~shotgun possessed by that child is forfeited and shall be ordered to be destroyed by the court.~~

1 ~~(d) No child by virtue of a disposition under this section shall be committed or transferred to~~
2 ~~a penal institution or other facility used for the execution of sentences of persons convicted of a~~
3 ~~crime.~~

4 ~~(e) No child found to be in need of supervision, unless also found to be delinquent, shall be~~
5 ~~committed to or placed in an institution or facility established for the care and rehabilitation of~~
6 ~~delinquent children unless the court finds upon a further hearing that the child is not amenable to~~
7 ~~treatment or rehabilitation under any prior disposition or unless the child is again alleged to be a~~
8 ~~child in need of supervision and the court, after hearing, so finds.~~

9 (fb) When a delinquent child is committable to an institution or agency for the mentally
10 retarded or mentally ill, the court shall proceed as provided in Section *12-15-70 rather than
11 committing to an institution or facility for the care and rehabilitation of delinquent children.

12 (gc) Whenever the court vests legal custody in an agency or department, it shall transmit with
13 the order copies of the clinical reports, predisposition study, and other information it has
14 pertinent to the care and treatment of the child.

15 ~~(hd)——(1) Regardless of the nature of the petition or allegation, when evidence is~~
16 ~~presented to the court that a child is at imminent risk of an out-of-home placement or a~~
17 ~~placement in a more restrictive environment as a result of the conditions of emotional~~
18 ~~disturbance, behavior disorder, mental retardation, mental illness, dependency, chemical~~
19 ~~dependency, education deficits, lack of supervision, delinquency, physical illness or~~
20 ~~disability, or any combination thereof, and if such conditions require the services of two or~~
21 ~~more agencies pursuant to Section 12-15-1(19), the juvenile court shall refer the child to the~~
22 ~~county children's services facilitation team for assessment and recommendations unless a~~
23 ~~current facilitation team plan is available to the court.~~ Within 21 days of receipt of the
24 referral, the county children's services facilitation team shall present to the court a

1 ~~preliminary~~ plan of services addressing the needs of the child and the respective
2 responsibilities of agencies composing this team. Upon receipt of ~~these preliminary~~
3 ~~recommendations~~ this plan, the ~~juvenile~~ court may ~~adjudge~~ find the child ~~as~~ a "multiple needs
4 child" ~~and in accordance with the county children's services facilitation team plan, unless~~
5 Unless the court finds it not in the best interest of the child, the court may order the use of
6 any dispositional alternative or service available for dependent or delinquent children or
7 children-in-need-of-supervision, children who are emotionally disturbed, mentally retarded,
8 or mentally ill, or children who need specialized educational services, or children who need
9 health services, or any combination thereof. ~~The county children's services facilitation team~~
10 ~~shall be responsible for developing a final service plan which shall be filed with the court.~~
11 The ~~member~~ appropriate agencies shall be responsible for the implementation of any ordered
12 service plan. ~~The court may, on its own motion, or on motion of a party, a party's parent or~~
13 ~~guardian, or a member of the county or state children's services facilitation team, set~~
14 ~~additional hearings.~~

15 (2) No child, unless alleged or adjudicated delinquent, may be placed in secure detention
16 facilities established primarily for delinquents, except in the following circumstances:

17 (3) The juvenile court shall determine the appropriate custodial entity, based on the
18 child's characteristics of behavior and type of treatment needed and in accord, as far as
19 possible, with the provisions of this chapter for vesting legal custody in an entity, person, or
20 department of a child determined to be dependent, in need of supervision, delinquent,
21 mentally ill, or mentally retarded. Nothing in this subsection, however, shall require an order
22 of commitment for a child to (i) receive services or (ii) be placed in the custody of a state
23 agency or department as an adjudicated multiple needs child. It shall be the duty of probation
24 services, and the Departments of Education, Youth Services, Mental Health and Mental

1 Retardation, Public Health, and Human Resources to provide services both at an in-home,
2 community, or residential setting for multiple needs children when ordered by the court.

3 (4) The juvenile court may appoint a guardian ad litem for a multiple needs child.

4 (5) The provisions of subdivisions (h)(1), (2), (3), and (4) which require new or
5 additional services beyond those already provided by the agencies are mandated only to the
6 extent that additional funds are appropriated to the State Multiple Needs Children Fund to
7 implement its provisions. The Departments of Human Resources, Mental Health and Mental
8 Retardation, Youth Services, and Education along with juvenile probation services shall
9 develop a program of services for multiple needs children. Nothing in the provisions relating
10 to multiple needs children shall prohibit or restrict departments or agencies charged with the
11 duty of providing services for children and families from working cooperatively and
12 providing financial assistance to address needs which have been identified prior to a case
13 being referred to a children's services facilitation team.

14 (ie) When a child is placed in the custody of the Department of Human Resources,
15 Department of Mental Health and Mental Retardation, or Department of Youth Services and
16 when the parents or guardians of the child have resources for child support, the juvenile court
17 ~~shall~~may order child support in conformity with the child support guidelines as set out in Rule
18 32, Alabama Rules of Judicial Administration. The child support shall be paid to the agency in
19 whose primary custody the child is placed and may be expended for those matters that are
20 necessary for the welfare and well-being of those children placed in the agencies. In these cases,
21 the court shall issue income withholding orders subject to state law. ~~Any petition for custody of a~~
22 ~~child filed by the Department of Human Resources shall contain a request for child support.~~

23 (jf) Whenever the court commits a child to a state or local agency or orders a state or local
24 agency to provide services or treatment for a child, that agency shall accept the child for

1 commitment, ordered services, or treatment within seven days of the ~~court's order~~ of the court.

2 ~~However, if compliance with the court's order within seven days would place an agency in~~
3 ~~violation of either a state statute or standard, then compliance is not required.~~

4 ~~(k) When the court finds a juvenile to be delinquent and commits the juvenile to a juvenile~~
5 ~~detention facility, boot camp, or to the Department of Youth Services, but the juvenile detention~~
6 ~~facility, boot camp, or the Department of Youth Services is unable to take the juvenile due to a~~
7 ~~lack of space and the juvenile is enrolled in public school, unless good cause is shown that the~~
8 ~~juvenile should not attend an alternative school, the court shall order that the juvenile attend an~~
9 ~~alternative school if an alternative school is available pending availability of space at the facility.~~

10 ~~(l) After completion of a term of commitment with the Department of Youth Services and~~
11 ~~when the juvenile is admitted back into public school, the juvenile shall be placed in an~~
12 ~~alternative school until such time when he or she meets all requirements set by the local board of~~
13 ~~education.~~

14 ~~(m) When a court, upon holding a hearing pursuant to Section 12-15-34, orders a juvenile~~
15 ~~case to be transferred to the circuit court for criminal prosecution and the juvenile is enrolled in~~
16 ~~public school, unless good cause is shown that the juvenile should not attend an alternative~~
17 ~~school, the court shall order that the juvenile attend an alternative school if an alternative school~~
18 ~~is available until disposition of the criminal charges in the circuit court. If the criminal charges~~
19 ~~result in conviction and the juvenile is sentenced to a term of imprisonment in a penal facility,~~
20 ~~then the juvenile shall remain in an alternative school pending the serving of the sentence. After~~
21 ~~completion of the sentence or if the juvenile is convicted but not sentenced to a term of~~
22 ~~imprisonment in a penal facility, when the juvenile is admitted back into school, the juvenile~~
23 ~~shall remain in an alternative school until such time as he or she meets the requirements set by~~
24 ~~the local board of education.~~

~~(n) The juvenile court is authorized to release the order referred to in subsections (k), (l), and (m) to the appropriate local school board where the public school or public schools in which the juvenile attempts to enroll are located. No hearing pursuant to Section 12-15-100 governing the confidentiality of juvenile records is required to release the order to the school board.~~

~~(e) (1) If a juvenile age 16 or over is enrolled in school and is charged with a crime pursuant to Section 12-15-34.1, or is charged with distribution of a controlled substance, then upon notice or knowledge of the charge, the local public school system shall assign the juvenile to an alternative school, if an alternative school is available, unless good cause is shown that the juvenile should not attend an alternative school. The decision to assign a student to an alternative school shall include a review and consideration of the exceptional status of the student pursuant to Chapter 39 of Title 16, if applicable, and any appropriate federal and state statutory and case law.~~

~~(2) Any person convicted of a crime specified in subdivision (1) and readmitted to the public schools of this state shall attend an alternative school until the juvenile meets the requirements set by the local board of education.~~

§ 12-15- . [DEP. Disposition of dependent children.]

(a) If a child is found to be dependent, the court may make any of the following orders of disposition to protect the welfare of the child:

(1) Permit the child to remain with the parent or parents, guardian, or other custodian of the child, subject to conditions and limitations as the court may prescribe.

(2) Place the child under protective supervision or under the supervision of the Department of Human Resources.

(3) Transfer legal custody to any of the following:

a. The Department of Human Resources;

1 b. A local public or private agency, organization, or facility willing and able to
2 assume the education, care, and maintenance of the child and which is licensed by the
3 Department of Human Resources or otherwise authorized by law to receive and provide
4 care for the child.

5 c. A relative or other individual who, after study by the Department of Human
6 Resources, is found by the court to be qualified to receive and care for the child.

7 (4) Make any other order as the court in its discretion shall deem to be for the welfare and
8 best interests of the child.

9 (b) Unless a child found dependent shall also be found to be delinquent, the child shall not be
10 committed to or confined in an institution established for the care and rehabilitation of delinquent
11 children or in a detention facility. Nothing in this subsection shall be construed to prohibit the
12 placement of dependent children in any other residential facility as defined in subdivision * of
13 Section 12-15-1

14 **§ 12-15- . [DEP] Permanency hearing for Department of Human Resources cases only.**

15 (a) Within 12 months of the date the child was removed from the custody of the parent or
16 parents, guardian, or custodian, the court shall hold a permanency hearing. The Department of
17 Human Resources shall present to the court at such hearing a permanent plan for the child. If a
18 permanent plan is not presented to the court at this hearing there shall be a rebuttable
19 presumption that the child should be returned home. This provision is intended to insure that a
20 permanent plan is prepared by the Department and presented to the court within 12 months of the
21 placement of any child in foster care. The purpose of the permanency hearing shall be to
22 determine the permanency plan for the child which may include whether, and, if applicable,
23 when, the child shall be (i) returned home on a specific date, (ii) placed for adoption with no
24 identified resource or with the current foster parent wherein the Department shall file a petition

1 for termination of parental rights, (iii) permanently placed with a relative with a transfer of legal
2 and physical custody to the relative or with a transfer of physical custody to the relative but with
3 the Department retaining legal custody, (iv) placed in adult custodial care, or (v) placed in
4 another planned permanent living arrangement. If the permanency hearing determines the
5 permanent plan will be placement in another planned permanent living arrangement, the
6 Department must document to the court a compelling reason for determining that it would not be
7 in the best interests of the child to return home, be placed for adoption with no identified
8 resource or with the current foster parent, or be permanently placed with a relative with a transfer
9 of legal and physical custody to the relative or with a transfer of physical custody to the relative
10 but with the Department retaining legal custody, or be placed in adult custodial care.

11 (b) Reasonable efforts shall be made to place the child and to complete whatever steps are
12 necessary to finalize the permanent placement of the child. Reasonable efforts to place a child
13 for adoption or with a legal guardian or custodian may be made concurrently with other
14 reasonable efforts.

15 **§ 12-15-71.1. [DEL] Serious juvenile offenders; disposition; serious juvenile offender**
16 **review panel; facility and programs.**

17 (a) The juvenile court may find a child under the age of 16 to be a serious juvenile offender
18 if:

19 (1) The child is adjudicated delinquent and the delinquent act or acts charged in the
20 petition would constitute any of the following if committed by an adult:

21 a. A capital offense.

22 b. A Class A felony;

23 bc. A felony resulting in serious physical injury [as defined in subdivision (9) of
24 Section 13A-1-2] which has an element thereof the use of a deadly weapon;

1 ~~ed. A felony involving physical force [subdivision (10) of Section 13A-1-2], or a~~
2 ~~deadly weapon [subdivision (11) of Section 13A-1-2], or a dangerous instrument~~
3 ~~[subdivision (12) of Section 13A-1-2] which has an element thereof the causing of death or~~
4 ~~serious physical injury; or~~

5 e. A felony which has an element thereof the use of a dangerous instrument against
6 any person who is:

7 1. A law enforcement officer or official.

8 2. A correctional officer or official.

9 3. A parole or probation officer or official.

10 4. A juvenile court probation officer or official

11 5. A district attorney or other prosecuting officer or official.

12 6. A judge or judicial official.

13 7. A court officer or official.

14 8. A person who is a grand juror, juror, or witness in any legal proceeding of
15 whatever nature when the offense stems from, is caused by, or is related to the role of
16 such person as a juror, grand juror, or witness.

17 9. A teacher, principal, or employee of the public education system of Alabama.

18 (f) Trafficking in drugs in violation of Section 13A-12-231, or as the same may be
19 amended.

20 (g) Any lesser included offense of the above offenses charged or any lesser felony
21 offense charged arising from the same facts and circumstances and committed at the same
22 time as the offenses listed above.

23 ~~_(2) The child has been adjudicated delinquent for an act which would constitute a Class~~
24 ~~A or B felony or burglary in the third degree involving a residence and the child has~~

1 ~~previously been adjudicated delinquent of two previous acts which would have been a Class~~
2 ~~A or B felony or burglary in the third degree involving a residence if such acts had been~~
3 ~~committed by an adult.~~

4 (b) A child found to be a serious juvenile offender shall be committed to the custody of the
5 Alabama Department of Youth Services, ~~where he shall remain~~ for a minimum of one year up to
6 21 years of age. The Department of Youth Services may petition the court to ask for release of
7 the child before the term expires.

8 (c) A serious juvenile offender review panel shall be created by the Board of the Alabama
9 Department of Youth Services. The serious juvenile offender review panel shall review quarterly
10 the progress of each serious juvenile offender and determine at the end of the one year term
11 served by each child, a further treatment plan for that child. ~~The panel may extend the~~
12 ~~commitment, order alternative treatment or release the child.~~ The serious juvenile offender
13 review panel must provide the court with all reports and recommendations, and ~~notify the judge~~
14 ~~in writing of the decision to release the child at least 30 days in advance of said release~~upon
15 petition for release, the court may order further treatment or may suspend the commitment and
16 release the child on conditions of aftercare.

17 (d) The Alabama Department of Youth Services shall maintain and staff a separate, secure
18 facility and implement programs for serious juvenile offenders. The minimum one year term
19 required by this section shall be served at said facility and the review panel may extend the
20 period of confinement in said facility as determined necessary.

21 (e) Nothing in this section shall be construed to prevent the juvenile court from transferring a
22 child for criminal prosecution pursuant to Section 12-15-34.

1 | § 12-15-72. ~~[DEL]~~ Orders of disposition, etc., not to be deemed convictions, impose civil
2 | disabilities, etc.; disposition of child and evidence in hearing not admissible in
3 | another court.

4 | (a) An order of disposition or other adjudication in proceeding under subsection (a) of
5 | Section 12-15-30 shall not be considered to be a conviction or impose any civil disabilities
6 | ordinarily resulting from a conviction of a crime or operate to disqualify the child in any civil
7 | service application or appointment.

8 | (b) The disposition of a child and evidence given in a hearing in the court shall not be
9 | admissible as evidence against him in any case or proceeding in any other court whether before
10 | or after reaching majority, except in a disposition hearing in a juvenile court or in sentencing
11 | proceedings after conviction of a crime for the purposes of a presentence study and report.

12 | § 12-15-73. ~~[GPI]~~ Issuance of orders restraining conduct of parties to proceedings.

13 | In any proceeding commenced under this chapter, on application of a party or the court's own
14 | motion, the court may make an order restraining the conduct of any party over whom the court
15 | has obtained jurisdiction, if:

16 | (1) An order of disposition of a delinquent or ~~*dependent child or~~ a child in need of
17 | supervision has been made in a proceeding under this chapter;

18 | (2) The court finds that the person's conduct is or may be detrimental or harmful to the child
19 | and will tend to defeat the execution of the order of disposition made; and

20 | (3) Notice of the application or motion and the grounds therefore and an opportunity to be
21 | heard thereon have been given to the person against whom the order is directed.

22 | § 12-15-74. ~~[DEL]~~ Modification, extension or revocation of orders of custody, ~~or~~
23 | probation ~~or protective supervision~~ generally.

(a) At any time prior to expiration, an order vesting legal custody or an order of probation ~~or protective supervision~~ made by the court in the case of a child may be modified, revoked or extended on motion by:

(1) A child, whose legal custody has been transferred to a department, institution, agency or person, requesting the court for a modification or termination of the order, alleging that he is no longer in need of commitment, or probation ~~or protective supervision~~ and the department, institution, agency or person has denied application for release of the child or has failed to act upon the application within a reasonable time; or

(2) A department, institution, agency or person vested with legal custody or responsibility for probation, ~~or protective supervision~~, requesting the court for an extension of the order on the grounds that such action is necessary to safeguard the welfare of the child or the public interest.

(b) The court may dismiss the motions filed under subsection (a) of this section if, after preliminary investigation, it finds that they are without substance. If it is of the opinion that the order should be reviewed, it may, upon due notice to all necessary parties as prescribed by rules of court, proceed to a hearing in the same manner and under the same safeguards provided for in this chapter for the issuance of the original order. It may there upon terminate the order if it finds the child is no longer in need of care, ~~supervision~~ or rehabilitation or it may enter an order extending or modifying the original order if it finds such action necessary to safeguard the child or the public interest.

§ 12-15- . [DEP] Modification, extension or revocation of orders of custody or protective supervision generally.

An order awarding legal custody or an order of protective supervision made by the court in the case of a child may be modified, revoked or extended on motion by:

1 (1) A child, whose legal custody has been transferred to a department, institution, agency
2 or person, requesting the court for a modification or termination of the order, alleging that the
3 child is no longer dependent or that protective supervision is no longer necessary; or

4 (2) A department, institution, agency or person vested with legal custody or responsibility
5 for protective supervision, requesting the court for an extension or termination of the order
6 on the grounds that such action is in the best interests of the child.

7 **§ 12-15-75. [GPI] Proceedings against children violating terms of probation, or aftercare**
8 **~~or protective supervision~~; disposition of such children.**

9 (a) A child on probation incident to an adjudication as a delinquent or child in need of
10 supervision who violates the terms of his probation or aftercare ~~or a child under protective~~
11 ~~supervision who fails to conform to the terms of his protective supervision~~ may be proceeded
12 against for a revocation of such order.

13 (b) A proceeding to revoke probation, aftercare or protective supervision shall be
14 commenced by the filing of a petition entitled "petition to revoke probation;" or "petition to
15 revoke aftercare;" ~~or "petition to revoke protective supervision."~~ Except as otherwise provided,
16 such petitions shall be screened, reviewed and prepared in the same manner and shall contain the
17 same information as provided in Sections 12-15-50 and 12-15-52. The petition shall recite the
18 date that the child was placed on probation, or aftercare ~~or under protective supervision~~ and
19 shall state the time and manner in which notice of the terms of probation, or aftercare or
20 protective supervision was given.

21 (c) Probation, or aftercare ~~or protective supervision~~ revocation proceedings shall require
22 clear and convincing evidence. In all other respects, proceedings to revoke probation, or
23 aftercare ~~or protective supervision~~ shall be governed by the procedures, safeguards and rights

1 and duties applicable to delinquency, ~~and~~ in need of supervision ~~and dependency~~ cases
2 contained in this chapter.

3 (d) If a child is found to have violated the terms of his probation or aftercare pursuant to a
4 revocation hearing, the court may extend the period of probation or aftercare or make any other
5 order of disposition specified for a child adjudicated delinquent or in need of supervision. ~~If a~~
6 ~~child is found to have violated the terms of his protective supervision pursuant to a revocation~~
7 ~~hearing, the court may extend the period of protective supervision or may make any order of~~
8 ~~disposition specified for a child adjudicated dependent.~~

9 (e) A violation of probation for a child in need of supervision is not an adjudication of
10 delinquency.

11 **§ 12-15- . [DEP] Proceedings in the matter of children violating terms of protective**
12 **supervision; disposition of such children.**

13 (a) A child under protective supervision who fails to conform to the terms of his protective
14 supervision may be proceeded against for a revocation of such order.

15 (b) A proceeding to revoke protective supervision shall be commenced by the filing of a
16 petition entitled "petition to revoke protective supervision." Except as otherwise provided, such
17 petitions shall be screened, reviewed and prepared in the same manner and shall contain the same
18 information as provided in Sections 12-15-50 and 12-15-52. The petition shall recite the date that
19 the child was placed under protective supervision and shall state the time and manner in which
20 notice of the terms of protective supervision was given.

21 (c) Protective supervision revocation proceedings shall require clear and convincing
22 evidence. In all other respects, proceedings to revoke protective supervision shall be governed by
23 the procedures, safeguards and rights and duties applicable dependency cases contained in this
24 chapter.

1 (d) If a child is found to have violated the terms of his protective supervision pursuant to a
2 revocation hearing, the court may extend the period of protective supervision or may make any
3 order of disposition specified for a child adjudicated dependent.

4 **~~§ 12-15-76. Procedure and dispositions in cases involving minors or adults.~~**

5 ~~In any proceeding arising under subdivision (1) of Section 12-15-31, the court, with the~~
6 ~~consent of the defendant, may make a preliminary investigation and such adjustment as is~~
7 ~~practicable, without prosecution. The procedure and disposition applicable in the trial of such~~
8 ~~cases in a criminal court shall be applicable to trial in the juvenile court.~~

9 ~~The prosecutor shall prepare and prosecute any case within the purview of Section 12-15-31.~~
10 ~~Where, in his opinion, it is necessary to protect the welfare of the persons before the court, the~~
11 ~~judge, with the consent of the defendant and the parties in interest, may conduct hearings in~~
12 ~~chambers and may exclude persons having no direct interest in the case.~~

13 ~~In addition to all other current requirements for investigating and reporting child abuse and~~
14 ~~neglect, law enforcement agencies shall investigate complaints alleging offenses committed~~
15 ~~against children by alleged out-of-home perpetrators. The Department of Human Resources shall~~
16 ~~cooperate with law enforcement agencies in interviewing the alleged abused children.~~